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February 27, 2004

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Joelle J. Phillips
Attorney

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VIA HAND DELIVERY

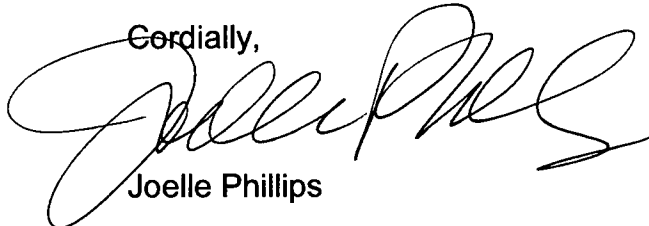
Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Generic Docket Addressing Rural Universal Service*
Docket No. 00-00523

Dear Chairman Tate:

Enclosed are the original and fourteen copies of BellSouth's *Brief Regarding Status of Outstanding Motions and Procedural Proposal*. Copies of the enclosed are being provided to counsel of record.

Cordially,



Joelle Phillips

JJP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *Generic Docket Addressing Rural Universal Service*

Docket No. 00-00523

**BRIEF OF BELL SOUTH TELECOMMUNICATIONS, INC.
REGARDING STATUS OF OUTSTANDING MOTIONS AND
PROCEDURAL PROPOSAL**

BellSouth Telecommunications, Inc. ("BellSouth") files this *Brief* and respectfully shows the Hearing Officer as follows:

I. THE CURRENT PENDING MOTIONS

Notwithstanding months of progress and productive meetings, BellSouth and the Coalition of Independent Telephone Companies (the "ICOs") are unable to proceed further without assistance from the Tennessee Regulatory Authority ("Authority" or "TRA"). The present stall in the process results from two issues:

A. The ICOs' Demand for "Interim" Payment from BellSouth for Terminating Traffic that Originates from CMRS Providers.

The ICOs have sought (in their *Petition for Emergency Relief and Request for Standstill Order*, filed April 3, 2003, (the "*Emergency Petition*") to require that BellSouth make further "interim" payments to compensate the ICOs for terminating traffic, which traffic BellSouth does not originate. The traffic instead originates from Commercial Mobile Radio Service ("CMRS") providers. The payments would be "interim" in that the ICOs apparently would not seek further payments by BellSouth once the ICOs have an agreement in place with the CMRS providers.

BellSouth, as the transit provider – in between the originating and terminating carrier – has no legal obligation to pay the ICOs for terminating this traffic. The Telecommunications Act of 1996 ("1996 Act") imposes no such obligation; BellSouth has no such obligation under any contract; and there is no state law or common law basis on which to argue that BellSouth is responsible for such payments.

As the Hearing Officer is aware, this issue has arisen due to the implementation of Meet-Point Billing¹ with CMRS carriers. Prior to Meet-Point Billing, CMRS providers contracted with BellSouth and those contracts contemplated that BellSouth would provide payment to the ICOs and collect payment from the CMRS providers. In this previous era, before Meet-Point Billing,² BellSouth was unable to provide industry standard call detail records to assist the ICO in billing the CMRS provider directly. Times have changed, however, and now, with regard to every CMRS carrier that has converted to Meet-Point Billing, BellSouth provides an industry standard EMI 1101-01 record to every ICO receiving CMRS-originated traffic that transits BellSouth's network. Using this record, the ICOs have all the information necessary to bill the originating carrier, the cost causer, for the call.

¹ "Meet-Point Billing" simply means that parties provide sufficient information to enable each party involved to bill the cost-causing entity for the services it provides in switching, transporting and terminating traffic.

² CMRS providers were entitled to obtain Meet-Point Billing arrangements with BellSouth as a matter of parity as BellSouth provides Meet-Point Billing arrangements to CLECs

The ICOs, however, refuse to bill the CMRS provider using this information. Instead, they want BellSouth to continue to compensate them at access rates for local CMRS traffic that BellSouth does not originate.³

In the past, BellSouth provided payment to the ICOs for CMRS transit traffic as an accommodation because no billing record was provided to the ICOs.⁴ In addition, in an effort to be cooperative as the ICOs make arrangements with the CMRS providers to pay for terminating this traffic, BellSouth agreed to a short-term arrangement to pay the ICOs on an interim basis while the ICOs and CMRS providers were negotiating an agreement. BellSouth agreed to provide the ICOs with one final extension of this interim arrangement in April, agreeing to make payments for another 90 days, albeit at a reduced rate. That interim payment agreement (as established in the parties' *Joint Agreed Motion*, filed April 25, 2003) expired in July, after the ICOs and CMRS providers had been negotiating for months.

BellSouth has consistently and repeatedly indicated that, as the middle transit provider, it has no legal obligation to pay intercarrier compensation of any kind for traffic originated by another party, and since CMRS traffic has been deemed local by the FCC (See *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No.

³ As a policy matter, the ICOs should not be allowed to bury their heads in the sand and refuse to use the industry standard forms used in Meet-Point Billing arrangements. Meet-Point Billing is the method used by BellSouth and the ICOs for years to bill interexchange carriers and it is also the billing method used with CLECs. The ICOs must be able to accommodate CLEC arrangements to prepare for the continuing growth of competition in Tennessee

⁴ Industry guidelines (Multiple Exchange Carrier Access Billing, or MECAB, guidelines) do not require the transiting carrier to provide records. Records exchange is simply one method available to the originating and terminating carriers. The originating and terminating carriers can agree to compensate each other in a variety of other ways, consistent with industry guidelines

96-98, August 8, 1996, paragraph 1036), BellSouth certainly has no obligation to pay access charges to the ICOs for termination of such traffic. Consequently, since July, BellSouth has refused to enter into any further agreement to continue paying the ICOs for this traffic *unless* such an agreement is a settlement agreement to end this ongoing dispute about CMRS traffic as to BellSouth. To that end, BellSouth has made a specific, written offer of settlement. (See letter attached.) BellSouth has offered to provide compensation at 2.5 cents per minute through May, 2004,⁵ in exchange for settlement. This rate is the same rate at which settlements were reached in other states – with one crucial difference. In Tennessee, because the ICOs have failed to reach agreement with the CMRS providers, BellSouth has agreed to shoulder the entire 2.5 cents, in contrast to other states where CMRS providers are contributing 1.0 cent toward the 2.5 cents.

The ICOs have also been given an offer from the CMRS providers to provide interim compensation during the pendency of the arbitration between those parties. (See letter attached.) To date, the ICOs have refused both of these offers.

With respect to interim payment until the conclusion of the CMRS arbitration, the ICOs face no real emergency. They have reasonable offers of compensation before them. In fact, BellSouth asserts that the amounts offered far exceed cost-based reciprocal compensation for the termination of local traffic. The reason they are not being paid is that they refuse to accept either offer, one of

⁵ Payment through May 2004 should provide the ICOs ample time to resolve this issue with no gap in payment, particularly in light of the proposed arbitration schedule for Docket No. 03-00585, which provides for an order to be entered by May 28, 2004

which would provide 2.5 cents (the same rate provided in settlements in Georgia and Mississippi) through May – a time period which will coincide with the end of the arbitration, based on the schedule proposed for the arbitration by the CMRS providers. Their choice to hold out for more money does not constitute an emergency.

Contrary to the assertions of the ICOs, the *Primary Carrier Plan* ("PCP"), which governs intraLATA toll settlements between BellSouth and the ICOs, simply does not govern the passage of CMRS-originated traffic. Instead, its plain language defines the traffic governed by the contract as only that traffic which is furnished "exclusively by exchange carriers." (See PCP excerpt filed April 30, 2003, attached.) Indeed, the PCP dates back to the 1980s, well before CMRS traffic could have been contemplated by the parties. Consequently, the issues regarding CMRS traffic are not encompassed by the PCP or the December 29, 2000 *Initial Order of Hearing Officer for the Purpose of Addressing the Authority's Jurisdiction over IntraLATA Toll Settlement Agreements between BST and Independent Incumbent Local Exchange Carriers* (the "December 2000 Order") on which the *Emergency Petition* is premised. The CMRS-originated traffic is not part of the "toll" settlement "arrangements" because the traffic at issue is not toll traffic. The ICOs have cited nothing in the language of the PCP that supports their position that CMRS-originated traffic is governed by that agreement.

The *Emergency Petition* wrongly argues that the CMRS-originated traffic is governed by the PCP, and its assertion of an "emergency" facing the ICOs is equally wrong. The true fact is there is no emergency for several reasons.

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order to ensure an agreement would be in place when the statutory deadline expires in March or to press the issue of interim compensation in the context of that docket. They even proposed a slower schedule for this particular briefing process than originally proposed by BellSouth. None of this is consistent with cries of "emergency."

BellSouth is not asking the ICOs to provide a free service to the CMRS providers, and in fact, agrees (as do the CMRS providers) that the ICOs are legally entitled to collect payments from the CMRS providers for terminating CMRS traffic. BellSouth is simply asking the TRA to ensure that BellSouth is not forced into the position of "banker" for the ICOs, and to ensure that BellSouth is not required to pay access charges to the ICOs for local traffic that BellSouth does not originate.

B. The Impact of the June 28, 2002 Order on Continuing Negotiations.

BellSouth and the ICOs have still not been able to reach agreement on a new contract to replace the out-dated, pre-competition era PCP. The agreement requires BellSouth to pay out-dated, inordinately-high access rates.

The agreement, by its terms, was terminable on 30 days' notice, but BellSouth has not unilaterally terminated the agreement in light of the TRA's December 2000 *Order*. That *Order* provided that BellSouth could not terminate the PCP "absent express action of the Authority". The December 2000 *Order* does not provide that the PCP could never be terminated. Even though the December 2000 *Order* leaves open BellSouth's ability to seek TRA action in order to terminate the PCP, the ICOs have throughout the negotiations held up that *Order* as if it were a TRA mandate requiring the out-dated PCP to remain in place *forever*.

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Far from making the PCP permanent, the December 2000 *Order* clearly envisioned (and specifically referenced) that negotiation to change the PCP would continue, but that during that negotiation, the ICOs would be temporarily protected from termination of the agreement. While the December 2000 *Order*, at the time, was intended to protect the ICOs from being forced to re-negotiate in 30 days (as the contract would have operated absent the December 2000 *Order*), the *Order* was never intended to permit the ICOs to refuse to reach a new agreement for *four years*. The reality is that the ICOs have relied on the December 2000 *Order* to delay indefinitely.

BellSouth has not, to date, filed a motion asking the TRA to permit BellSouth to terminate the PCP by a date certain. While BellSouth has not yet taken this action, BellSouth grows more and more convinced that this may be the only way to resolve this issue with the ICOs, because the ICOs' positions seem to be premised on the idea that the PCP has been promised to them – as if it were TRA-mandated by the December 2000 *Order*. The ICOs have refused even to discuss a date certain by which BellSouth could expect to receive access reductions. Relying on the December 2000 *Order*, the ICOs have treated the PCP as a permanent TRA-approved surrogate for a Rural Universal Service ("Rural USF") plan. While BellSouth has not yet asked for TRA action on the PCP (either terminating the PCP or setting a future date after which it could be terminated), BellSouth believes that the time may soon come when BellSouth will be forced to file a motion with the TRA asking the TRA for relief in recognition that the situation is quite different today than in December 2000, and that the ICOs have had a four-

year opportunity to work with BellSouth, both to re-negotiate the PCP and to make proposals regarding Rural USF in Tennessee. ***At this point, however, BellSouth merely seeks a clarification of the much later June 28, 2002 Initial Order of Hearing Officer (for the Purpose of Addressing Legal Issues 2 & 3 Identified in the Report and Recommendation of Pre-Hearing Officer Filed on 11/08/00) (the “June 2002 Order”) in order to ensure to that this Order is not likewise misconstrued by the ICOs as a promise that the PCP can be held in place forever against BellSouth’s will.***

BellSouth’s pending motion is about the June 2002 *Order*. The June 2002 *Order* held that the PCP could be considered in this docket for purposes of decisions regarding Rural USF support. In its *Motion*, BellSouth merely seeks clarification that the effect of the PCP could be considered in the docket – but that this would not mean that the PCP must remain in place until the conclusion of the docket.⁷ As referenced above, BellSouth needs this relief to stop the ICOs from continuing to rely on the June 2002 *Order* as support for the proposition that the PCP must necessarily remain in place until a Rural USF plan is implemented in Tennessee, enabling them to further delay creation of a new agreement.

The importance of the clarification of the *Order* must be seen in the context of the history of this docket and the legal authority governing universal service support. On June 20, 2000, the Authority voted to convene a generic docket “for

⁷ BellSouth’s counterclaim, as set forth in its April 15, 2003, pleading, sought joinder of the CMRS providers. This relief was sought in response to the ICOs’ insistence that they were unable to get the CMRS providers to negotiate. This relief is now moot, as the CMRS providers have willingly come to the table, spent months negotiating and have now petitioned for arbitration to finalize direct agreements with the ICOs.

the purpose of addressing rural universal service.” *Order Opening Docket*, July 14, 2000, at 1. This docket was specifically limited to consideration of the need for a state universal service fund addressing rural areas in contrast to the earlier docket, opening in 1997, which addressed information relating to the need for a state universal service fund for non-rural areas. The Authority specifically noted the importance of coinciding with similar proceedings at the FCC addressing universal service. *Order*, p. 2. Accordingly, decisions in this docket regarding universal service support for rural providers should further the FCC goals based upon the express provisions of 254(d) of the Telecommunications Act, of ensuring that such support is derived equitably from all sources and is not carried by one entity or sector alone. Moreover, the development of a state Rural USF plan must also be consistent with state law, which requires such a funding process be “fair to all telecommunications service providers” and which prohibits unwarranted subsidization of any telecommunications service provider “by another telecommunications service provider”. T.C.A. § 65-5-207(c).

Consistent with these state and federal guidelines, it is clear that the BellSouth PCP payments to the ICOs cannot be used as a substitute for equitably-collected universal service support. The ICOs’ assumption that the PCP must remain in place for their protection – until a rural USF plan can replace it – is flatly inconsistent with federal and state law prohibiting USF to be based on the contributions of one carrier alone. The ICOs cannot, consistent with the legal authority noted above, insist that BellSouth alone (through the PCP) foot the entire bill for state Rural USF. By demanding that the PCP remain unchanged until it can

be replaced with state USF, however, that is precisely what the ICOs are trying to do.

BellSouth has no objection to the Authority considering every relevant concept when developing a state Rural USF plan. However, BellSouth is looking for a remedy for the present PCP deadlock – in which the ICOs have decided that they have a right to retain an out-moded contract, as if it were an existing state Rural USF plan, until they are granted a Rural USF Plan that will seamlessly substitute for the out-dated access payments it receives under the old PCP. BellSouth's motion for clarification is intended to dispel this assumption in an attempt to re-start the negotiations.

In the event such negotiations prove futile, however, then BellSouth reserves its rights to bring appropriate action at the TRA to terminate the PCP as discussed above. While understanding the desire of the ICOs to continue their current revenue streams in the *Rural Universal Service* docket, BellSouth cannot be required to subsidize the ICOs as it does under these outdated contracts. BellSouth will never be able to negotiate a change, however, as long as the ICOs believe the TRA has ruled that the PCP must remain in place until state Rural USF is in place. Stated simply, the TRA can consider the **effect** of termination or alteration without **postponing** alteration or termination. Postponing BellSouth's ability to terminate or renegotiate these contracts would not only be unfair, unnecessary, and inconsistent with the Authority's commitment to competition, but it will also completely stymie the very negotiations the TRA has encouraged for four years.

BellSouth further seeks clarification of the statement on page 4 of the June 2002 Order that "the Tennessee Public Service Commission directed BellSouth Telecommunications, Inc. ("BellSouth") to enter into toll settlement arrangements that were structured in a manner that enable independent companies to maintain their current revenue streams." BellSouth has researched its records of Tennessee Public Service Commission orders and has found no order directing BellSouth to enter into such arrangements or addressing whether such arrangements should be structured in a manner to enable independent companies to maintain current revenue streams. BellSouth seeks clarification regarding the specific order on which this statement is based, clarification that BellSouth believes will be helpful in moving the ICOs away from their position that the PCP has been TRA-mandated to remain in place as a substitute for state Rural USF.

BellSouth is *not* seeking an order permitting it to terminate the PCP at this time. BellSouth is *not* seeking to change or interrupt the current ability of customers to receive CMRS-originated calls. BellSouth is *not* seeking to block calls. Bellsouth is *not* trying to limit the issues that will be considered for purposes of developing a state rural USF program. ***At this time, BellSouth merely seeks an order clarifying the June 2002 Order in light of the ICOs' apparent perspective that the TRA has, in that Order, granted them the right to retain the PCP until a state Rural USF process is implemented, a perspective that has stalled the negotiations.***

II. DISCUSSION OF PROCEDURAL PROPOSAL

A. Address Motions.

BellSouth believes the motions still presenting live controversy are (1) BellSouth's motion seeking to clarify the June 2002 *Order* and (2) the ICOs' motion to require BellSouth to pay access for terminating CMRS-originated traffic. BellSouth's counterclaim – seeking to join the CMRS providers – is moot because those parties intervened voluntarily and, in addition, have negotiated and then petitioned the TRA to arbitrate disputed issues relating to their interconnection agreements with the ICOs.

By resolving the two outstanding motions, the TRA can break the current log jam in the negotiations. BellSouth believes once that log jam is broken, the ICOs and BellSouth can reach a negotiated resolution regarding the PCP.

B. Allow Arbitrations to Proceed Unhindered.

In April of 2003, when the parties assembled for a status conference in this matter, the most pressing issue was the concern about how to enable the ICOs and the CMRS providers to talk face to face. That issue has been resolved, as these parties have negotiated and now are proceeding to arbitrate those issues that they were unable to resolve alone. It is vitally important that nothing in this docket hinder the progress of the arbitrations.

BellSouth believes (consistent with the comments of the CMRS parties during the recent Status Conference of Monday, February 24, 2004 in the arbitration docket, Docket NO. 03-00585) that there is no legal basis to combine this docket with the arbitration docket and no legal basis for drawing BellSouth into those arbitrations. The arbitrations were never stayed, yet the ICOs have never taken any step to actually seek joinder or consolidation (even though they

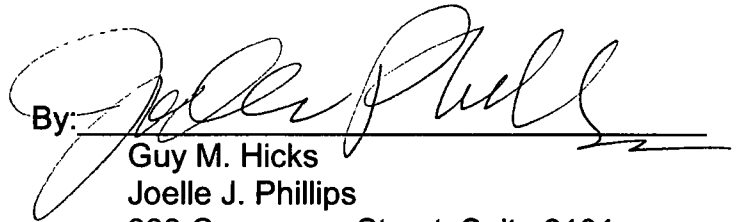
referenced it as early as December of 2003). Clearly, the ICOs' interest in continuing these proceedings is merely a delay tactic – designed to keep BellSouth in the middle longer in the hopes of setting a higher rate for terminating their calls.

C. Address RUSF.

While BellSouth and the ICOs have continued to discuss Rural USF, this docket includes many parties who are also stakeholders with respect to that issue. BellSouth respectfully suggests that some process, whether workshops or the invitation of comments, be re-started to move the Authority closer to the development of a Rural USF plan.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By: 
Guy M. Hicks
Joelle J. Phillips
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300
615/214-6301

Hanesworth, Carolyn

Importance: High

-----Original Message-----

From: McCallen, Ray
Sent: Monday, February 02, 2004 4:19 PM
To: 'bruce.mottern@tdstelecom.com'
Cc: McCallen, Ray; Phillips, Joelle; Stinson, Paul; Fox, Jeff, Howorth, Charles; Boren, Don C; Jordan, Parkey; Lavett, Suzie H; Thweatt, Ronald
Subject: BellSouth's "CMRS related" offer to TN ICOs
Importance: High

Bruce,

Please find attached for review and consideration by you, and all of the TN Rural Coalition, BellSouth's very latest and best attempt to clarify our CMRS traffic related offer in a brief letter format. We have even improved the offer timeframe by 2 months by offering to pay through March 2004 usage (May 2004 payment).

I now understand that the TRA has set up a status conference for 2/17/04 and I would really appreciate your group's response to the attached, preferably in writing, by Monday 2/9/04 in order to allow everyone ample time to prepare for that status conference.

Bruce, should you have any questions please feel free to call me at 205-321-8906. If I am not available and you need an immediate answer to a question, feel free to contact any of the rest of us here at BellSouth that you have been working with all along

Thanks Bruce,



00-00523 settlement
letter to

Ray Mc

Ray McCallen
BellSouth
Account Manager - ICOs
(GA, KY, LA, TN, ALLTEL, TDS and Citizens/Frontier)
phone: 205-321-8906
pager: 1-877-407-8601
i-pager: rmccallen

February 2, 2004

Mr. Bruce Mottern
TDS Telecom
P. O. Box 22995
Knoxville, TN 22995

Dear Bruce:

This letter articulates BellSouth's offer of settlement to the Tennessee Rural Independent Coalition ("ICOs") regarding interim compensation for CMRS-originated traffic that transits BellSouth's network and terminates to ICO end-users. I understand you will be discussing this offer with your colleagues and counsel. Please let us know whether the ICOs will agree to this settlement.

BellSouth proposes that the parties agree as follows:

1. Pursuant to the parties' joint motion of April 25, 2003, BellSouth agreed to pay the ICOs, through June 2003, for CMRS-originated traffic transiting BellSouth's network as BellSouth was paying prior to February 28, 2003. Pursuant to this Motion, in July, BellSouth paid the ICOs at a reduced rate of \$.03 for this CMRS-originated transit traffic. That agreement expired, and no payments have been made by BellSouth on this traffic since the July 2003 payment for May usage. The parties now agree that, during the "interim term" as defined below, BellSouth will pay the ICOs at a rate of \$0.025 per minute for all CMRS-originated traffic transiting BellSouth's network as specified in Paragraph 3 below.

2. The "interim term" commences with the date of this agreement and terminates on May 31, 2004, unless the ICOs and the CMRS providers have agreed upon the terms of an interconnection agreement between those parties prior to May 31, 2004. If such an agreement is reached prior to May 31, 2004, then the "interim term" shall end on the last day of the month in which the interconnection agreement is reached with respect to those parties subject to such interconnection agreement. In no event shall the "interim term" extend beyond May 31, 2004.

Mr. Bruce Mottern
February 2, 2004
Page 2

3. During the "interim term", BellSouth will make monthly payments at the rate specified in Paragraph 1 to the ICOs for all CMRS transit traffic (i.e., both "meet point billed," which is that CMRS transit traffic for which BellSouth generates and delivers to the ICOs industry standard call detail records, and "non-meet point billed," which is all other CMRS transit traffic) in the same manner that BellSouth paid the ICOs for CMRS traffic prior to February 28, 2003 (i.e., BellSouth will pay the ICOs for CMRS Transit traffic only where the traffic, if delivered from BellSouth's network, would constitute toll traffic). These payments for CMRS transit traffic will be calculated, using the rate in Paragraph 1, consistent with the parties' past practice based on minutes of usage for the month ending two months prior to the payment month as illustrated below. Accordingly, if the "interim term" does not terminate early pursuant to Paragraph 2, then BellSouth will pay:

In February 2004 for December 2003 usage
In March 2004 for January 2004 usage
In April 2004 for February 2004 usage
In May 2004 for March 2004 usage

In addition to these payments, BellSouth will also pay the ICOs a payment equivalent to the payments set forth in Paragraph 1, calculated as described in Paragraph 3, for the following months during which no payment was made:

August 2003 for June 2003 usage
September 2003 for July 2003 usage
October 2003 for August 2003 usage
November 2003 for September 2003 usage
December 2003 for October 2003 usage
January 2004 for November 2003 usage

The payments representing these amounts will be made by BellSouth no later than March 31, 2004.

4. At the conclusion of the "interim term", the ICOs will receive no further payment from BellSouth relating to any CMRS traffic that transits BellSouth's network and terminates to ICO end-users. During, or, at the conclusion of the "interim term", the ICOs will not seek any further payments from BellSouth relating to CMRS transit traffic that transits BellSouth's network and terminates to ICO end-users. Notwithstanding this agreement, the Parties shall be free to raise any argument, or advance any position regarding compensation for transit traffic in any proceeding before the FCC.

Mr. Bruce Mottern
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Page 3

5. The members of the Rural Coalition and BellSouth shall enter into a settlement agreement more formally memorializing the terms of the settlement. This letter, once executed, shall constitute a fully binding agreement.

SO AGREED.

Jerry Hendrix on behalf of
BellSouth Telecommunications, Inc.

Bruce Mottern on behalf of the
Tennessee Rural Independent Coalition
as specified in the *Petition for
Emergency Relief and Request for
Standstill Order* in Docket No. 00-00523

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LAWYERS

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July 30, 2003

RECEIVED
RON JONES

VIA E-MAIL AND REGULAR MAIL

AUG 1 2003

Mr. Steve Kraskin
Kraskin, Lessee & Cosson, LLP
2120 L. Street, NW, Suite 520
Washington, DC 20037

TN REGULATORY AUTHORITY

Re: Tennessee Interim Compensation Offer (TRA Docket No. 00-00523)

Dear Steve:

This letter confirms the wireless carriers' offer to the members of the Tennessee Rural Independent Coalition (the "Coalition") to establish a reciprocal interim compensation arrangement pending resolution of negotiations or arbitration and approval of such rates by the Tennessee Regulatory Authority ("TRA").¹ I am authorized to provide this offer to you by representatives of the following wireless carriers: AT&T Wireless Services, Sprint PCS, Cingular Wireless, Cellco Partnership d/b/a "Verizon Wireless," T-Mobile, US Cellular and Clear Talk (collectively, the "Wireless Carriers"). Consistent with the provisions of the mechanisms established by the Federal Communications Commission ("FCC") in 47 CFR section 51.715, the Wireless Carriers propose that the interim compensation arrangement include the following terms:

- ❖ *Interim Rate:* For the ILECs in the Tennessee Rural Coalition for which the TRA has established transport and termination rates based on forward looking costs, those rates should be used on an interim basis. For those ILECS for which the TRA has not

¹ Such negotiations are occurring pursuant to the wireless carriers' May 29 2003 bona fide request for interconnection negotiations pursuant to section 251 of the Communications Act, as supplemented by the carriers' June 6, 2003 letter. (Copies of the letters are enclosed)

established such rates, we propose to use as the interim rate either: (i) the transport and termination rate established by the TRA for BellSouth and used by BellSouth prior to its adoption of the FCC's internet service provider ("ISP") rate; or (ii) the default rates established 47 CFR section 51.715(b)(3) (even though those rates have been invalidated, the Wireless Carriers would be willing to agree to pay them on a interim basis). The choice as to whether to select rate method (i) or (ii) would be made by the Tennessee Rural Coalition on behalf of all of its members. That selection would be applicable until the TRA establishes rates for the participating ILECs and would be subject to true-up, as further provided below. These rates would apply on a symmetrical, reciprocal basis to all traffic exchanged between the parties.

- ❖ **Traffic Ratio:** For purposes of the proposed interim compensation arrangement, parties will use a traffic factor of 65% mobile-originated-35% land-originated as the basis for reciprocal compensation. A Wireless Carrier or participating ILEC could request adjustment of this traffic ratio based on actual measured traffic.
- ❖ **Billing Period and De Minimis Exception:** Billing would be on a monthly basis. To avoid requiring the ILECs and the Wireless Carriers to send out bills for very small amounts, the parties agree that if the volume of traffic exchanged between any wireless carrier and any rural carrier is less than 10,000 minutes per month, traffic will be exchanged between those carriers on a bill and keep basis for that month.
- ❖ **True Up:** Pursuant to 47 CFR section 51.715(d) if the rates under this interim arrangement differ from the rates ultimately adopted by the TRA (pursuant to either a negotiated agreement or an arbitration) the rates will be subject to true up. The traffic factors will not, however, be subject to true up.
- ❖ **Effect on Existing Agreements:** An existing interconnection or traffic exchange agreement between a participating ILEC and a Wireless Carrier will continue in accordance with the existing terms and conditions contained within such agreement and will be unaffected by the interim compensation arrangement.

Please let us know at your earliest convenience whether the Coalition would like to enter the interim compensation arrangement proposed, and if so, which of the interim rate options the

Mr. Steve Kraskin
July 30, 2003
Page 3

Coalition chooses. The Coalition may accept this offer by signing below and indicating the rate option. Upon receipt of the Coalition's acceptance, the Wireless Carriers will consider the interim compensation arrangement to be in effect.

Very truly yours,

Davis Wright Tremaine LLP



Suzanne Toller
Counsel for AT&T Wireless

cc: Joelle Phillips, BellSouth
Hon. Ron Jones, Hearing Officer
Jill Mounsey, AT&T Wireless
Monica Barone, Sprint PCS
Elaine Critides, Verizon Wireless
Bill Brown, Cingular
Dan Menser, T-Mobile
Jim Nauman, US Cellular
Tom Sams, ClearTalk

Enclosure

Agreed and accepted:

Steven G. Kraskin, on behalf of the
Tennessee Rural Independent Coalition

Rate Option: _____



BellSouth Telecommunications, Inc
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

Guy M. Hicks
General Counsel

615 214 6301
Fax 615 214 7406

TRA
April 30, 2003

VIA HAND DELIVERY

Hon. Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Generic Docket Addressing Rural Universal Service*
Docket No. 00-00523

Dear Chairman Kyle:

Enclosed are fifteen copies of BellSouth's letter to the Hearing Officer dated April 28. Attached to that letter is a copy of the portion of the Primary Carrier Plan ("PCP") in which IntraLATA Switched Toll Services is designated as "traffic covered by this Annex" and defined. This information was provided at the request of the Hearing Officer during the recent status conference.

BellSouth has, as you know, maintained throughout this docket that the PCPs have never been and should not be the subject of TRA or PSC review or approval. By making this material available for your information, BellSouth does not concede or in any way change its position relating to TRA review or filing of these items.

Copies of the enclosed are being provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch

489381



BellSouth Telecommunications, Inc
333 Commerce Street
Suite 2101
Nashville, TN 37201-3300

joelle.phillips@bellsouth.com

April 28, 2003

Joelle J. Phillips
Attorney

615 214 6311
Fax 615 214 7406

VIA HAND DELIVERY

Hon. Ron Jones, Hearing Officer
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: Docket No. 00-00523

Dear Director Jones:

As you requested during the Status Conference, we are providing you with a copy of the portion of the Primary Carrier Plan ("PCP") in which IntraLATA Switched Toll Services is designated as "traffic covered by this Annex" and defined. We have reviewed the PCPs for the Tennessee ICOs and found no PCP that does not contain this identical definition. We have not provided this material as a formal filing, because we have not obtained permission from the ICOs to file and serve copies of these agreements, but we will be happy to make the necessary arrangements to do so if needed.

BellSouth has, as you know, maintained throughout this docket that the PCPs have never been and should not be the subject of TRA or PSC review or approval. By making this material available for your information, BellSouth does not concede or in any way change its position relating to TRA review or filing of these items.

Cordially,

A handwritten signature in black ink, appearing to read "Joelle Phillips", written over the typed name.

Joelle Phillips

JP:LS

Enclosure:

ANNEX 1

INTRALATA SWITCHED TOLL SERVICES ANNEX

Effective: January 1, 1985

This Annex between SOUTH CENTRAL BELL TELEPHONE COMPANY, having its principal place of business in Birmingham, Alabama, herein called the Bell Company, and the Independent Company as identified in the Agreement for the Provision of Telecommunications Services and Facilities, sets forth the terms and conditions regarding the provision of intraLATA switched toll services.

SECTION I

TRAFFIC COVERED BY THIS ANNEX

IntraLATA Switched Toll Services are defined as IntraLATA Message Telecommunications Services (MTS), including optional calling plans, Outward Wide Area Telecommunications Services (WATS) and 800 Service, which are furnished within LATAs in which both the Bell Company and the Independent Company operate in whole or in part by the system of the Independent Company and by the system of the Bell Company and are furnished exclusively by exchange carriers under uniform toll tariffs.

When Independent-to-Independent (I-I) or Bell-to-Independent (B-I) traffic ceases to be furnished under toll rate schedules identical for both the Independent Company and the Bell Company or when either I-I or B-I traffic becomes an Extended Area Service (EAS) or other local service offering, such traffic will no longer be covered by this Annex. No compensation to the Independent Company will be made by the Bell Company for such traffic under this Annex.

SECTION II DEFINITIONS

For purposes of this Annex:

The System of the Independent Company comprises the exchange areas, exchanges, toll stations and toll circuit groups operated by the Independent Company and associated with LATAs in which the Bell Company operates including systems of local wireline exchange carriers associated within the same LATA other than the Bell Company with which the Independent Company connects, as specified in Exhibit A of this Annex.

The System of the Bell Operating Company comprises the exchange areas, exchanges, toll stations and toll circuit groups operated by the Bell Company, and will include systems of local wireline exchange carriers within the same LATA other than those identified as a part of the system of the Independent Company, as specified in Exhibit A.

IntraLATA Message Telecommunications Services (MTS) includes the facilities used and services rendered in furnishing telephone toll service communications between customer premises in different exchange areas within a LATA, in accordance with the schedules of charges, regulations and conditions stated in the uniform statewide intraLATA exchange carrier toll tariff(s).

IntraLATA Outward Wide Area Telecommunications Service (WATS) includes facilities used and service rendered in furnishing telephone toll service communications from an access line to other stations within a specified area in a LATA in accordance with the schedules of charges, regulations and conditions stated in the exchange carrier toll tariff(s).

IntraLATA 800 Service includes the facilities used and services rendered in furnishing 800 Service from stations within a LATA to a customer premises in accordance with the schedules of charges, regulations and conditions stated in the exchange carrier toll tariff(s).

SECTION III INDEPENDENT COMPANY EXCHANGES

The exchanges of the Independent Company system covered by this Annex are listed in Exhibit A attached hereto.

SECTION IV PHYSICAL CONNECTION

The Bell Company and the Independent Company will connect and maintain the connections of their respective systems at the point or points listed in Exhibit A during the term of this Annex. Neither party will, without the written consent of the other, connect the facilities of the other party with any facilities other than as indicated in Exhibit A.

SECTION V ROUTING OF TRAFFIC

The traffic interchanged under this Annex will be routed as indicated in Exhibit A to this Annex. Changes in routing must be agreed to in writing by the parties before becoming effective.

SECTION VI
TRAFFIC RECORDING AND OPERATOR FUNCTIONS

The functions required to provide intraLATA switched toll services specified hereunder, e.g., recording and operating of intraLATA MTS, WATS, and 800 Service, shall be performed as shown in Exhibit B attached hereto.

SECTION VII
CONSTRUCTION AND PROTECTION OF PLANT

Each party will construct, equip, maintain and operate its system so as to provide adequate facilities for the efficient provision of good service to the public at all times.

Each party will take reasonable precautions in the location, construction and maintenance of its facilities for protection against hazard and interference from power lines and other sources.

SECTION VIII
MONTHLY COMPENSATION

Each party will collect all charges payable by its customers for intraLATA switched toll services in accordance with related tariff provisions and will account for and be responsible for such charges. Each party will keep adequate records of all collections, payments and other transactions hereunder, and such records will be subject to inspection by the other party upon reasonable request. Each party will furnish to the other such information as may be required for monthly compensation purposes. Compensation statements hereunder will be rendered monthly by the Bell Company to the Independent

Company and remittance in full, including disputed amounts, will be made by the debtor company by the last work day of the month following the month being settled. If a dispute is substantiated in favor of the exchange carrier, the fund will return the disputed amount plus interest (.05 percent per day). Disputes which cannot be resolved should be referred to the State Fund Oversight Committee for resolution.

SECTION IX BASIS OF COMPENSATION

Monthly compensation due each party for facilities furnished and services provided hereunder will be determined as provided in Exhibit C attached hereto and made a part hereof.

SECTION X DEFAULTS OR VIOLATIONS

If either party connects the facilities of the other party in any manner other than as specifically provided herein, this Annex is subject to immediate termination upon written notice.

SECTION XI TERM OF ANNEX

This Annex will become effective on the date specified and will continue in force thereafter, until terminated upon thirty (30) days prior written notice with or without cause by either party. This Annex may be amended from time to time upon written agreement of the parties.

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2003, a copy of the foregoing document was served on the parties of record, via the method indicated:

☐ Hand
☒ Mail
☐ Facsimile
☐ Overnight

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Charles B. Welch, Esquire
Farris, Mathews, et al.
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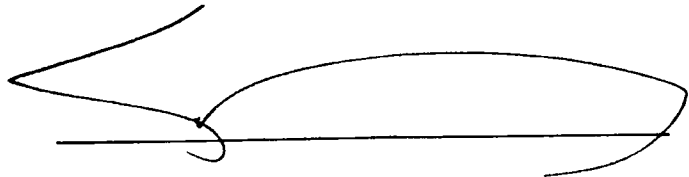
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A handwritten signature in black ink, appearing to read 'Stephen G. Kraskin', written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2004, a copy of the foregoing document was served on the parties of record, via the method indicated:

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